

STATEMENT BY ASSISTANT SECRETARY OF STATE

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COMMITTEE ON INTERNATIONAL RELATIONS

HOUSE OF REPRESENTATIVES

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Mr. Chairman, thank you for the opportunity to appear before this Subcommittee today to address an important topic — the state of democracy in Venezuela.

It is not news to the members of this Committee that, over the past year, the assault from within on Venezuela's democratic institutions has continued. Indeed, there is a growing hemispheric and international consensus that democracy in Venezuela is in grave peril, as documented by international human rights groups, the Inter-American Commission on Human Rights, the Venezuelan Episcopal Conference, and independent Venezuelan NGOs, among others.

As the Secretary has noted, the United States does not seek to have poor relations with Venezuela. What we want, our Hemispheric and international partners want, and we believe the Venezuelan people want and deserve, is the very goal we are striving for in the rest of the Hemisphere — *democratically-elected* governments that *govern democratically* and

responsibly, expand economic opportunity for their people, and work cooperatively with their neighbors. Regrettably, the democratically-elected Venezuelan government is backsliding on all these fronts, subverting democratic institutions by using them to restrict the rights of those who disagree with it, slowly undermining economic freedoms, and rejecting the opportunities of globalization.

Speaking at a human rights defenders conference held in Caracas in September, Human Rights Watch Americas Director José Miguel Vivanco characterized the state of the rule of law, the backbone of liberal democracy, in Venezuela as “extraordinarily grave” and necessitating urgent action by the Inter-American system. Indeed, we are witnessing an increasing and unchecked concentration of power in the executive; the politicization of the judiciary, the electoral authorities and the legal system; political persecution of civil society and the democratic opposition; arbitrary restrictions on, and intimidation of, the press; and threats to free association.

President Chávez controls the five branches of government set out in Venezuela’s constitution — executive, legislative, judicial, electoral and the so-called “citizens’ power” (which includes the Attorney General and the Accounting Office). Most notably he has centralized his control over the Supreme Court, which last year he expanded and packed with loyalists, and lower courts; the National Electoral Council (CNE) (four of whose five members are government supporters); the National Assembly, where all polls indicate he will secure a two-thirds majority in the December 4 legislative elections and achieve absolute control; and the office of the Attorney General. This is also true of the military and previously

independent entities such as the state-owned oil company, PDVSA, and the Central Bank. The impact on the civic, political and economic life of the country is evident in increased self-censorship by the media, lack of public confidence in the electoral system, reluctance to express disagreement with government policies for fear of government retribution, capital flight, decreased oil production by the now politicized state company and decreased foreign investment in any sector outside of oil, which is now to be subject to increased state control.

Judicial Independence and Administration of Justice

In its 2005 World Report, Human Rights Watch noted that the Venezuelan government continued “to take steps to undermine the independence of the country’s judiciary and to threaten freedom of the press.” In a statement issued in December 2004, following the politically motivated expansion of the Supreme Court, Human Rights Watch condemned the government for packing the Court with 12 new loyalist justices as “a severe blow to judicial independence,” adding that the move would “degrade” and “betray” Venezuelan democracy. Similar concerns have been echoed by Amnesty International and the Andean Commission of Jurists.

The politicization of the judiciary also extends to the lower courts. According to the Venezuelan judicial watch-dog NGO *Foro Penal*, over 200 judges have been removed or retired for political reasons. During the 123rd session of the IACHR in October, several respected Venezuelan human rights NGOs — PROVEA, COFAVIC, and the Center for Human Rights at the Andrés Bello Catholic University — identified the deterioration of the

justice system as the root cause of a rising climate of impunity, and increased criminality and violence in the country. These NGOs themselves face increased harassment by the government and impediments in carrying out their work.

Freedom of the Press

While Venezuela continues to enjoy an independent media, in the past year, the government has taken a number of steps to erode freedom of expression. Last year's enactment of a punitive media law, which places arbitrary restrictions on broadcast content, has resulted in self-censorship by major media outlets and the termination of certain radio and TV programs. This and other laws serve as pretexts to stifle press freedom and intimidate government critics. In September, for example, the National Telecommunications Council (CONATEL), or FCC equivalent, opened administrative proceedings into seven TV stations for alleged failure to make proper use of assigned frequencies. Twenty-two radio stations are under investigation for other alleged improprieties. Stations found in violation could lose their broadcast licenses. Alleged tax violations have also been used to harass media outlets critical of the government. The October 24-closure of a regional paper (*El Impulso*) for alleged tax infractions is but the latest example.

This alarming trend has not gone unnoticed. The Inter-American Press Association, Reporters Without Borders, Human Rights Watch and the Special Rapporteur for Freedom of Expression for the Inter-American Commission on Human Rights Association have all voiced concern about increased threats to freedom of expression in Venezuela. In March of this

year, the Special Rapporteur specifically criticized the passage of certain amendments to the Criminal Code that expand the reach and increase criminal penalties for “*desacato*” or “contempt” of public officials. At a time when many of the Hemisphere’s democracies are repealing such anachronistic laws, Venezuela is giving them added teeth. Citing the Declaration on Principles of Freedom of Expression approved by the IACHR in October 2000, the Special Rapporteur noted that “Laws that penalize offensive expressions directed at public officials... restrict freedom of expression and the right to information.”

Most disturbing of all is the attempt to use the criminal justice system to stifle media criticism. On November 4, the Attorney General announced a detention order for a well-known journalist and vocal government critic, Patricia Poleo, for her alleged participation in the plot to assassinate prosecutor Danilo Anderson, who was killed in November 2004. The Inter-American Press Association immediately condemned this charge as an attempt to silence the media through intimidation. In July, the Office of the Attorney General said it was opening a criminal investigation against the leading daily *El Universal* for publishing an editorial criticizing the politicization of the judicial system. This action too was denounced by the Inter-American Press Association and the IACHR Special Rapporteur for Press Freedom.

The Venezuelan Catholic Bishops Conference has stated it most succinctly: “All persons and institutions have the right to express their opinions in accordance with their convictions, a right that must be respected and guaranteed in any democratic society.”

Civil and Political Rights

Mr. Chairman, members of the Committee, I know some of you have had the opportunity to meet with the leaders of the electoral watch-dog NGO Súmate, Maria Corina Machado and Alejandro Plaz. Theirs is perhaps the most well-known example of the government's harassment and persecution of those who disagree with it. Machado, Plaz, and two of their colleagues, have been indicted for "conspiracy to overthrow the republican form of government" for receiving a \$31,000 grant from the National Endowment for Democracy for voter education activities. We understand that oral arguments in their case are scheduled to begin in early December.

Perhaps less visible but equally disturbing is the continued persecution of political opponents and discrimination against those who signed the recall referendum petition. These citizens have been denied basic government services, including passports and national identity cards, forced from their jobs, and excluded from government contracts as punishment for exercising their constitutional right to petition the government. In January, the respected Venezuelan human rights organization PROVEA reported a 13% increase in politically motivated detentions from the previous year. Between October 2003 and September 2004, according to the NGO, 54 such cases were reported. A comparison with the number of reported detentions in 1999 underlines the point even more dramatically. That year, PROVEA only noted one case.

Electoral Rights

These latest moves against freedom of the press and freedom of association come just weeks before the December 4 National Assembly elections. The elections will be a test of the transparency and fairness of the electoral authorities and the electoral system, which are increasingly in doubt. Observers from the European Commission and the OAS will be in Venezuela in advance of the elections to monitor preparations and push for greater transparency. Opposition political parties are participating in the elections, but they, along with Súmate and other NGOs, have denounced obstructionism by electoral officials.

Voter turn-out and confidence in the electoral system is at an all-time low. Abstention levels in the August parish and municipal elections were over 70 percent. Recent polls show that over 60 percent of Venezuelans do not trust the electoral system. Independent pollsters are predicting close to 80 percent abstention rates in the upcoming legislative elections. These deepening suspicions are fueled by the political make-up of the CNE (only one of whose five members is not a government loyalist) and its reluctance to implement the recommendations made by the OAS and Carter Center after the August 2004 presidential recall referendum. Speaking directly to the issue of public confidence in elections, among its recommendations, the Carter Center noted the need for the CNE to “communicate and consult much more regularly with the political parties, and put in place much greater mechanisms of transparency to restore confidence in the electoral process.” Indeed, the Carter Center report underscored that the referendum’s “numerous irregularities” mostly centered “around the lack of transparency of the CNE in its decision-making process and its ad hoc implementation of the recall referendum process.”

In its own separate report, the OAS observer mission recommended a third-party audit of the electoral registry, whose results would be made public. The CNE has contracted the Costa Rica-based Center for Electoral Assistance and Promotion (CAPEL), which is the electoral arm of the Inter-American Institute for Democracy and Human Rights, to conduct such an audit. Súmate and many in the opposition have questioned CAPEL's independence and ability to conduct a thorough audit. CAPEL has said it expects to issue a final report before the end of November. Still, with less than a month before the legislative elections, it is all but technically impossible to implement significant changes by then — even if the audit results are presented and disseminated on schedule. Any real changes will take time, and, more importantly, political will.

What we are doing

The Administration is working multi-laterally, engaging the OAS, the EU, and the Council of Europe, among others, to support Venezuelan civil society, speak out against abuses of democracy, and hold the Venezuelan government accountable to its commitments under the Inter-American Democratic Charter. We are likewise reaching out, at a bilateral level, to our partners in the Hemisphere and in Europe to do the same, and sensitizing them to the threat to regional stability posed by the Venezuelan government's arms shopping spree and its support for radical political movements.

Within Venezuela, we are working to preserve political and civic space for increasingly at-risk groups. The Venezuelan business community, organized labor, the independent media, NGOs, and religious institutions, in particular, the Catholic Church, have a critical role to play in providing the checks and balances that government institutions are no longer able to provide. Establishing linkages between these groups and institutions and their U.S. and international counterparts will fortify their ability to perform their essential role. The work of the National Endowment for Democracy (NED) is especially important in helping foster these kinds of linkages.

The Administration is reaching out to international human rights and other NGOs to help create an international network to support and defend Venezuelan civil society. Our USAID program in Caracas supports local human rights NGOs, judicial and penal watch-dog groups, press freedom activities and provides small, high-impact grants for programs that serve poor communities.

Our Embassy's public diplomacy outreach is a key part of our effort to highlight American values, our ties and affection for the Venezuelan people, and to communicate the Administration's positive hemispheric agenda. President Bush said it best during his stop in Brazil following the Summit of the Americas earlier this month. He said:

“Ensuring social justice for the Americas requires choosing between two competing visions: One offers a vision of hope. It is founded on representative government, integration into the world community, and faith in the transformative power of freedom; the other seeks to roll-back the democratic progress of the past two decades by playing to fear, pitting neighbor against neighbor, and blaming others for their own failures to provide for their people.”

Mr. Chairman, this concludes my prepared remarks. Once again, I would like to thank you for the opportunity to meet with you today and I would be pleased to respond to your questions.